

ASSEMBLY BILL

No. 1532

Introduced by Assembly Members Florez and Briggs

February 26, 1999

An act to amend Section 1157 of the Evidence Code, and to amend Section 1250.8 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as introduced, Florez. Health facilities: single medical staff.

Existing law provides for the licensure and regulation of health care facilities, including general acute care hospitals, by the State Department of Health Services. Existing law authorizes the department to issue a single consolidated license to a general acute care hospital that includes more than one physical plant on separate premises in certain circumstances.

This bill would specifically provide that two or more general acute care hospitals that are operated under common ownership or management, that meet certain requirements relating to the issuance of a consolidated license, may have a single governing body, a single administration, and a single medical staff, and may maintain separate hospital licenses.

Existing law provides that the proceedings and records of organized committees of medical staffs and certain professional peer review bodies are not subject to discovery, and that persons in attendance at meetings of those bodies

may not be required to testify as to what transpired at the meeting.

This bill would specifically provide that this prohibition applies to the proceedings and records of a single medical staff that serves as the organized medical staff for more than one licensed general acute care hospital which maintains separate licensure as described.

This bill would provide that it is declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1157 of the Evidence Code is
2 amended to read:

3 1157. (a) Neither the proceedings nor the records of
4 organized committees of medical, medical-dental,
5 podiatric, registered dietitian, psychological, or
6 veterinary staffs in hospitals, or of a peer review body, as
7 defined in Section 805 of the Business and Professions
8 Code, having the responsibility of evaluation and
9 improvement of the quality of care rendered in the
10 hospital, or for that peer review body, or medical or
11 dental review or dental hygienist review or chiropractic
12 review or podiatric review or registered dietitian review
13 or veterinary review or acupuncturist review committees
14 of local medical, dental, dental hygienist, podiatric,
15 dietetic, veterinary, acupuncture, or chiropractic
16 societies, or psychological review committees of state or
17 local psychological associations or societies having the
18 responsibility of evaluation and improvement of the
19 quality of care, shall be subject to discovery.

20 (b) Except as hereinafter provided, no person in
21 attendance at a meeting of any of those committees shall
22 be required to testify as to what transpired at that
23 meeting.

24 (c) The prohibition relating to discovery or testimony
25 does not apply to the statements made by any person in

1 attendance at a meeting of any of those committees who
2 is a party to an action or proceeding the subject matter of
3 which was reviewed at that meeting, or to any person
4 requesting hospital staff privileges, or in any action
5 against an insurance carrier alleging bad faith by the
6 carrier in refusing to accept a settlement offer within the
7 policy limits.

8 (d) The prohibitions in this section do not apply to
9 medical, dental, dental hygienist, podiatric, dietetic,
10 psychological, veterinary, acupuncture, or chiropractic
11 society committees that exceed 10 percent of the
12 membership of the society, nor to any of those
13 committees if any person serves upon the committee
14 when his or her own conduct or practice is being
15 reviewed.

16 (e) The amendments made to this section by Chapter
17 1081 of the Statutes of 1983, or at the 1985 portion of the
18 1985–86 Regular Session of the Legislature, or at the 1990
19 portion of the 1989–90 Regular Session of the Legislature,
20 do not exclude the discovery or use of relevant evidence
21 in a criminal action.

22 (f) *The prohibition relating to discovery or testimony*
23 *described in this section shall apply to the proceedings*
24 *and records described in subdivision (a) of a single*
25 *medical staff that serves as the organized medical staff for*
26 *more than one licensed general acute care hospital as*
27 *described in subdivision (m) of Section 1250.8 of the*
28 *Health and Safety Code. This subdivision is declaratory of*
29 *existing law.*

30 SEC. 2. Section 1250.8 of the Health and Safety Code
31 is amended to read:

32 1250.8. (a) Notwithstanding subdivision (a) of
33 Section 437.10, the state department, upon application of
34 a general acute care hospital which meets all the criteria
35 of subdivision (b), and other applicable requirements of
36 licensure, shall issue a single consolidated license to a
37 general acute care hospital which includes more than one
38 physical plant maintained and operated on separate
39 premises or which has multiple licenses for a single health
40 facility on the same premises. A single consolidated

1 license shall not be issued where the separate
2 freestanding physical plant is a skilled nursing facility or
3 an intermediate care facility, whether or not the location
4 of the skilled nursing facility or intermediate care facility
5 is contiguous to the general acute care hospital unless the
6 hospital is exempt from the requirements of subdivision
7 (b) of Section 1254, or the facility is part of the physical
8 structure licensed to provide acute care.

9 (b) The issuance of a single consolidated license shall
10 be based on the following criteria:

11 (1) There is a single governing body for all of the
12 facilities maintained and operated by the licensee.

13 (2) There is a single administration for all of the
14 facilities maintained and operated by the licensee.

15 (3) There is a single medical staff for all of the facilities
16 maintained and operated by the licensee, with a single set
17 of bylaws, rules, and regulations, which prescribe a single
18 committee structure.

19 (4) Except as provided otherwise in this paragraph,
20 the physical plants maintained and operated by the
21 licensee which are to be covered by the single
22 consolidated license are located not more than 15 miles
23 apart. If an applicant provides evidence satisfactory to the
24 department that it can comply with all requirements of
25 licensure and provide quality care and adequate
26 administrative and professional supervision, the director
27 may issue a single consolidated license to a general acute
28 care hospital that operates two or more physical plants
29 located more than 15 miles apart under any of the
30 following circumstances:

31 (A) One or more of the physical plants is located in a
32 rural area, as defined by regulations of the director.

33 (B) One or more of the physical plants provides only
34 outpatient services, as defined by the department.

35 (C) If Section 14105.986 of the Welfare and Institutions
36 Code is implemented and the applicant meets all of the
37 following criteria:

38 (i) The applicant is a nonprofit corporation.

39 (ii) The applicant is a children's hospital listed in
40 Section 10727 of the Welfare and Institutions Code.

1 (iii) The applicant is affiliated with a major university
2 medical school, and located adjacent thereto.

3 (iv) The applicant operates a regional tertiary care
4 facility.

5 (v) One of the physical plants is located in a county
6 that has a consolidated and county government structure.

7 (vi) One of the physical plants is located in a county
8 having a population between 1 million and 2 million.

9 (vii) The applicant is located in a city with a
10 population between 50,000 and 100,000.

11 (c) In issuing the single consolidated license, the state
12 department shall specify the location of each
13 supplemental service and the location of the number and
14 category of beds provided by the licensee. The single
15 consolidated license shall be renewed annually.

16 (d) To the extent required by Part 1.5 (commencing
17 with Section 437) of Division 1, a general acute care
18 hospital which has been issued a single consolidated
19 license:

20 (1) Shall not transfer from one facility to another a
21 special service described in Section 1255 without first
22 obtaining a certificate of need.

23 (2) Shall not transfer, in whole or in part, from one
24 facility to another, a supplemental service, as defined in
25 regulations of the director pursuant to this chapter,
26 without first obtaining a certificate of need, unless the
27 licensee, 30 days prior to the relocation, notifies the Office
28 of Statewide Health Planning and Development, the
29 applicable health systems agency, and the state
30 department of the licensee's intent to relocate the
31 supplemental service, and includes with this notice a cost
32 estimate, certified by a person qualified by experience or
33 training to render the estimates, which estimates that the
34 cost of the transfer will not exceed the capital
35 expenditure threshold established by the Office of
36 Statewide Health Planning and Development pursuant
37 to Section 437.10.

38 (3) Shall not transfer beds from one facility to another
39 facility, without first obtaining a certificate of need unless,
40 30 days prior to the relocation, the licensee notifies the

1 Office of Statewide Health Planning and Development,
2 the applicable health systems agency, and the state
3 department of the licensee's intent to relocate health
4 facility beds, and includes with this notice both of the
5 following:

6 (A) A cost estimate, certified by a person qualified by
7 experience or training to render the estimates, which
8 estimates that the cost of the relocation will not exceed
9 the capital expenditure threshold established by the
10 Office of Statewide Health Planning and Development
11 pursuant to Section 437.10.

12 (B) The identification of the number, classification,
13 and location of the health facility beds in the transferor
14 facility and the proposed number, classification, and
15 location of the health facility beds in the transferee
16 facility.

17 Except as otherwise permitted in Part 1.5
18 (commencing with Section 437) of Division 1, or as
19 authorized in an approved certificate of need pursuant to
20 that part, health facility beds transferred pursuant to this
21 section shall be used in the transferee facility in the same
22 bed classification as defined in Section 1250.1, as the beds
23 were classified in the transferor facility.

24 Health facility beds transferred pursuant to this section
25 shall not be transferred back to the transferor facility for
26 two years from the date of the transfer, regardless of cost,
27 without first obtaining a certificate of need pursuant to
28 Part 1.5 (commencing with Section 437) of Division 1.

29 (e) All transfers pursuant to subdivision (d) shall
30 satisfy all applicable requirements of licensure and shall
31 be subject to the written approval, if required, of the state
32 department. The state department may adopt
33 regulations which are necessary to implement the
34 provisions of this section. These regulations may include
35 a requirement that each facility of a health facility subject
36 to a single consolidated license have an onsite full-time or
37 part-time administrator.

38 (f) As used in this section, "facility" means any
39 physical plant operated or maintained by a health facility

1 subject to a single, consolidated license issued pursuant to
2 this section.

3 (g) For purposes of selective provider contracts
4 negotiated under the Medi-Cal program, the treatment
5 of a health facility with a single consolidated license issued
6 pursuant to this section shall be subject to negotiation
7 between the health facility and the California Medical
8 Assistance Commission. A general acute care hospital
9 which is issued a single consolidated license pursuant to
10 this section may, at its option, receive from the state
11 department a single Medi-Cal program provider number
12 or separate Medi-Cal program provider numbers for one
13 or more of the facilities subject to the single consolidated
14 license. Irrespective of whether the general acute care
15 hospital is issued one or more Medi-Cal provider
16 numbers, the state department may require the hospital
17 to file separate cost reports for each facility pursuant to
18 Section 14170 of the Welfare and Institutions Code.

19 (h) For purposes of the Annual Report of Hospitals
20 required by regulations adopted by the state department
21 pursuant to this part, the state department and the Office
22 of Statewide Health Planning and Development may
23 require reporting of bed and service utilization data
24 separately by each facility of a general acute care hospital
25 issued a single consolidated license pursuant to this
26 section.

27 (i) The amendments made to this section during the
28 1985–86 Regular Session of the California Legislature
29 pertaining to the issuance of a single consolidated license
30 to a general acute care hospital in the case where the
31 separate physical plant is a skilled nursing facility or
32 intermediate care facility shall not apply to the following
33 facilities:

34 (1) Any facility which obtained a certificate of need
35 after August 1, 1984, and prior to February 14, 1985, as
36 described in this subdivision. The certificate of need shall
37 be for the construction of a skilled nursing facility or
38 intermediate care facility which is the same facility for
39 which the hospital applies for a single consolidated
40 license, pursuant to subdivision (a).

1 (2) Any facility for which a single consolidated license
2 has been issued pursuant to subdivision (a), as described
3 in this subdivision, prior to the effective date of the
4 amendments made to this section during the 1985–86
5 Regular Session of the California Legislature.

6 Any facility which has been issued a single consolidated
7 license pursuant to subdivision (a), as described in this
8 subdivision, shall be granted renewal licenses based upon
9 the same criteria used for the initial consolidated license.

10 (j) If the state department issues a single consolidated
11 license pursuant to this section, the state department may
12 take any action authorized by this chapter, including, but
13 not limited to, any action specified in Article 5
14 (commencing with Section 1294), with respect to any
15 facility, or any service provided in any facility, which is
16 included in the consolidated license.

17 (k) The eligibility for participation in the Medi-Cal
18 program (Chapter 7 (commencing with Section 14000),
19 Part 3, Division 9, Welfare and Institutions Code) of any
20 facility that is included in a consolidated license issued
21 pursuant to this section, provides outpatient services, and
22 is located more than 15 miles from the health facility
23 issued the consolidated license shall be subject to a
24 determination of eligibility by the state department. This
25 subdivision shall not apply to any facility that is located in
26 a rural area and is included in a consolidated license
27 issued pursuant to subparagraphs (A), (B), and (C) of
28 paragraph (4) of subdivision (b). Regardless of whether
29 a facility has received or not received a determination of
30 eligibility pursuant to this subdivision, this subdivision
31 shall not affect the ability of a licensed professional,
32 providing services covered by the Medi-Cal program to
33 a person eligible for Medi-Cal in a facility subject to a
34 determination of eligibility pursuant to this subdivision,
35 to bill the Medi-Cal program for those services provided
36 in accordance with applicable regulations.

37 (l) Notwithstanding any other provision of law, the
38 director may issue a single consolidated license for a
39 general acute care hospital to Children's Hospital
40 Oakland and San Ramon Regional Medical Center.

1 (m) Notwithstanding any other provision of law, two
2 or more general acute hospitals that are operated under
3 common ownership or management, and that meet the
4 requirements of paragraph (4) of subdivision (b), may
5 have a single governing body, a single administration, and
6 a single medical staff, and may maintain separate hospital
7 licenses. This subdivision is declaratory of existing law.

8 SEC. 3. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or
10 safety within the meaning of Article IV of the
11 Constitution and shall go into immediate effect. The facts
12 constituting the necessity are:

13 In order to clarify existing law with regard to health
14 facility medical staff and their records and proceedings at
15 the earliest possible time, it is necessary that this act take
16 effect immediately.

